

**MILITARY COMMISSIONS TRIAL JUDICIARY  
GUANTANAMO BAY, CUBA**

UNITED STATES OF AMERICA

v.

MOHAMMED KAMIN

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**Defense Motion  
for Appropriate Relief**

Order for Appointment and Funding of  
Requested Defense Expert Consultant Dr.  
[REDACTED] in the Field of Clinical and  
Forensic Psychology

29 August 2008

1. **Timeliness:** This Motion is timely filed pursuant to the procedure afforded by the Rules for Military Commissions (R.M.C.). *See* R.M.C. 703(d); 905(b)(4).
2. **Relief Sought:** Detailed defense counsel for Mr. Mohammed Kamin<sup>1</sup> respectfully requests the Commission to order the appointment and funding of Dr. [REDACTED], M.A., Ph.D., to work as an expert consultant with the defense in the field of clinical and forensic psychology.
3. **Burden and Standard of Proof:** As the moving party, the defense bears the burden of establishing that it is entitled to the requested relief. *See* R.M.C. 905(c)(2)(A). “[T]he accused has the burden of establishing that a reasonable probability exists that (1) an expert would be of assistance to the defense and (2) that denial of expert assistance would result in a fundamentally unfair trial.” *United States v. Freeman*, 65 M.J. 451, 458 (C.A.A.F. 2008); *citing United States v. Gunkle*, 55 M.J. 26, 31-32 (C.A.A.F. 2001). “[T]he burden of proof on any factual issue the resolution of which is necessary to decide a motion shall be by a preponderance of the evidence.” R.M.C. 905(c)(2).

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<sup>1</sup> Detailed defense counsel files this Motion solely under the authority provided by the Commission on 21 May 2008 that detailed defense counsel shall represent the accused in this case.

4. **Facts:**

a. Mr. Kamin is a native of Afghanistan. [REDACTED], [REDACTED]. Subsequent to his capture, he came into the custody of the United States government. Since at least November 2004, the date of his Combatant Status Review Tribunal, he has been confined as a detainee at Guantanamo Bay, Cuba (GTMO). Prior to his arrival in GTMO, Mr. Kamin was confined at Bagram Air Base, Afghanistan. *See Transcript of Hearing ICO United States v. Kamin*, May 21, 2008 (Draft), pg. 30.

b. In November and December 2005, Kamin was evaluated by the JTF-GTMO Behavioral Healthcare Services Case Review/Treatment Team ("BSCT") at the request of his interrogation team. He was evaluated due to [REDACTED]

[REDACTED]. The BSCT found a diagnostic impression as follows: [REDACTED]

[REDACTED]. *See Attachment A.* Though follow up evaluations were ordered, there has been minimal follow-up to the initial evaluation by the BSCT. There is no evidence that a physician and/or psychologist has met with Kamin for any length of time or thoroughly reviewed his case since December 2005.<sup>2</sup>

c. For the entire time Mr. Kamin has been at GTMO, he has been confined in Camps [REDACTED]. *See Transcript of Hearing ICO United States v. Kamin*, July 31, 2008 (Draft), pg. 64. [REDACTED]

d. Camp [REDACTED] is a state-of-the-art, \$16 million facility, completed in May 2004. Its construction was based upon a modern maximum-security design used for U.S. federal penitentiaries. Composed of four wings of 12 to 14 individual cells each, the two-story maximum-security detention and interrogation facility can hold about 100 detainees. Those detainees deemed to be the highest threat to themselves, other detainees or guards, as well as detainees considered to be the most valuable intelligence assets, are housed in Camp [REDACTED]. *See* <http://www.jtfgtmo.southcom.mil/mission.html> (accessed August 28, 2008).

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<sup>2</sup> The government has provided to the defense 33 pages of records related to mental health assessments or evaluations since 2005. On 30 June 2008, the government stated these were all of the records relating to his mental health. As such, the defense believes no follow-up evaluations were done.

[REDACTED]

e. Camp [REDACTED] is a \$37-million facility completed in November 2006. This two-story maximum -security detention and interrogation facility can accommodate approximately 160 detainees. See <http://www.jtfgtmo.southcom.mil/mission.html> (accessed August 28, 2008). [REDACTED]

f. Mr. Kamin was arraigned on the Charge on 21 May 2008.<sup>4</sup> As he repeatedly stated during the arraignment, Mr. Kamin refused to be represented by his detailed defense counsel.<sup>5</sup> Mr. Kamin also declined to represent himself, *pro se*, and further stated his intent not to attend future proceedings.

g. The Commission ordered LT Federico to represent Mr. Kamin because [REDACTED]  
[REDACTED] See Transcript of  
Hearing ICO *United States v. Kamin*, May 21, 2008 (Draft), pg. 42.

h. During his arraignment, Mr. Kamin stated to the Military Judge: [REDACTED]  
[REDACTED] See Transcript of Hearing ICO *United States v. Kamin*, May 21, 2008 (Draft), pg. 12.

i. On 2 July 2008, the defense submitted a Memorandum<sup>6</sup> to the Convening Authority requesting the appointment of Dr. [REDACTED], Ph.D., to the defense team. [Attachment D]. Included within this request was Dr. [REDACTED]'s *curriculum vitae*. [Attachment E]. This request was denied by the convening authority on 14 July 2008. [Attachment F].

j. On the same date the defense received the denial from the convening authority,

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<sup>4</sup> Mr. Kamin refused to voluntarily attend his arraignment. [REDACTED]

<sup>5</sup> Mr. Kamin made 18 such statements during the arraignment, statements such as [REDACTED]

<sup>6</sup> This was the second attempt by the defense to secure the appointment of an expert consultant. On 20 June 2008, the defense submitted a request for [REDACTED], Ph.D., to be an expert consultant. [Attachment B]. This request was denied by the convening authority on 25 June 2008. [Attachment C].

14 July, the defense submitted a supplement to its initial request to address the stated need for “additional support.” [Attachment G]. This request was again denied on 15 July 2008. [Attachment H].

k. On 31 July 2008, the defense filed a Motion (D-06) seeking an Order from the Commission that detailed defense counsel be permitted on the cellblock to speak directly to Mr. Kamin. This Motion was litigated at a hearing<sup>7</sup> on that same date. During this hearing, [REDACTED], JAGC, USA, Deputy SJA, JTF-GTMO, testified that on that date he spoke with Mr. Kamin in his cell about attending the hearing. [REDACTED] testified, [REDACTED]

[REDACTED] *See Transcript of Hearing ICO United States v. Kamin*, July 31, 2008 (Draft), pg. 66. The Military Judge Denied D-06 on 6 August 2008.

l. Within the detention camps in GTMO, there exist a coordinated effort by detainees to protest their detention and the Military Commissions system. On 31 July, [REDACTED], U.S. Navy, Commanding Officer, Navy Expeditionary Guard Battalion, JTF-GTMO, testified that [REDACTED]

[REDACTED] *See Transcript of Hearing ICO United States v. Kamin*, July 31, 2008 (Draft), pg. 99.

m. On 29 August 2008, the defense filed a Motion seeking an Order for an inquiry to be conducted pursuant to R.M.C. 706 (“706 Inquiry”). The Motion remains pending before the Commission.

## **5. Law and Argument:**

### **I. THE COMMISSION SHOULD APPLY THE LAW AS APPLICABLE TO U.S. MILITARY COURTS-MARTIAL TO FIND THE DEFENSE HAS MADE AN ADEQUATE SHOWING OF NECESSITY THAT DR. [REDACTED] BE APPOINTED AND FUNDED AS A DEFENSE EXPERT CONSULTANT**

a. “Defense counsel in a military commission under this chapter shall have a reasonable opportunity to obtain witnesses and other evidence as provided in regulations prescribed by the Secretary of Defense.” 10 U.S.C. § 949j(a). On 2 July 2008, the defense sought approval from the convening authority to appoint and fund Dr. [REDACTED], M.A., Ph.D., to be an expert consultant in clinical and forensic psychology. As discussed, *infra*, the defense sought the appointment of Dr. [REDACTED] so that it could have the

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<sup>7</sup> Mr. Kamin refused to attend the hearing. The Military Judge [REDACTED] entered a finding that Mr. Kamin had voluntarily waived his right to appear.

opportunity to obtain evidence on the issue of whether Mr. Kamin is competent to stand trial, to make a knowing and voluntary waiver of his right to counsel, and/or to determine whether he suffers from a diminished capacity. *See* R.M.C. 909(a); *Dusky v. United States*, 362 U.S. 402 (1960)(*per curiam*); R.M.C. 506(c); *Faretta v. California*, 422 U.S. 806 (1975); *Indiana v. Edwards*, 128 S. Ct. 2379 (2008).

b. The defense was notified that the convening authority initially denied the defense request on 14 July 2008. After consideration of supplemental matters submitted that same day, the convening authority again denied the request on 15 July 2008. The basis for both denials was that the convening authority determined that the defense did not demonstrate necessity for the appointment of an expert. *See Attachments F, H.*<sup>8</sup> “A request denied by the convening authority may be renewed before the military judge, who shall determine whether the testimony of the expert is relevant and necessary.” R.M.C. 703(d).

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<sup>8</sup> The defense respectfully requests the Commission give no weight to the determination and findings of the convening authority. This is especially important because it cannot be ignored that the convening authority is the former Chief Judge of the U.S. Court of Appeals for the Armed Forces and thus it is foreseeable that a military judge may give more weight to her findings and conclusions than typically afforded to a convening authority. Further, the defense also must note that the convening authority has in the past written emphatic dissents and demonstrated open hostility to majority opinions of the court requiring appointment of experts to assist defense counsel. *See United States v. Warner*, 62 M.J. 114, 123 (C.A.A.F. 2005)(Crawford, J., dissenting) (“I must respectfully, but emphatically dissent.”), at 128 (“The result is a retrospective rule that will alter the landscape of every court-martial now on appeal or yet to be tried, that involves either a Government expert consultant or expert witness.”), at 130 (“Setting aside for the moment the majority’s reinventing of Article 46 and R.C.M. 703...”), at 132 (“[t]he majority’s gymnastic pronouncements...”), at 133 (“In *United States v. McAllister*, 55 M.J. 270, 281-82 (C.A.A.F. 2001)(Crawford, C.J., dissenting), I dissented from the Court’s relegation to a mere formality of the defense burden to establish necessity for a particular expertise.”), at 134 (“Our Constitution contains its own wise restraint on ‘cumulative and problematic’ effects – separation of powers doctrine. Will the military society respect a judicial system that ignores that doctrine as well as prevailing legal standards and decisions? And will the American public have confidence that the intent of Congress in promulgating the UCMJ is being respected? I fear not.”); *United States v. Kruetzer*, 61 M.J. 293, 306 (C.A.A.F. 2005) (Crawford, J., dissenting) (“I respectfully dissent from the majority’s expansion of *Ake v. Oklahoma*, 470 U.S. 68, 84 L. Ed. 2d 53, 105 S.Ct. 1087 (1985), by finding in the U.S. Constitution a right of an accused to a death penalty mitigation specialist on the defense team, without the accused first demonstrating the need for such an expert.”).

c. There is no corollary procedure applied in U.S. Federal District Courts to provide for the employment of defense expert consultants because the very notion of a “convening authority” is unique to the military justice system, both in courts-martial and commissions. To implement the M.C.A., the Commission should look towards the judicial construction and application of the procedural rules to military courts-martial, as prescribed by the Uniform Code of Military Justice (U.C.M.J.). *See* M.C.A., Part I (Preamble), ¶ 1(e); *quoting* 10 U.S.C. § 949a(a) (“Such rules ‘shall, so far as the Secretary considers practicable or consistent with military or intelligence activities, apply the principles of law and the rules of evidence’ for trials by general courts-martial, so long as the rules and procedures are not contrary or inconsistent with the M.C.A.”); *But see* M.C.A., Part I (Preamble), ¶ 1(b) (“While the M.C.A. is consistent with the U.C.M.J. in many respects, neither the U.C.M.J. itself nor ‘[t]he judicial construction and application of that chapter’ is binding on trials by military commissions.” (10 U.S.C. § 949b(c))).

d. In military courts-martial, “service members are entitled to investigative or other expert assistance when necessary for an adequate defense.” *United States v. Freeman*, 65 M.J. 451, 458 (C.A.A.F. 2008); *quoting United States v. Garries*, 22 M.J. 288, 290 (C.M.A. 1986); *accord United States v. Bresnahan*, 62 M.J. 137, 143 (C.A.A.F. 2005). “[T]he accused has the burden of establishing that a reasonable probability exists that (1) an expert would be of assistance to the defense and (2) that denial of expert assistance would result in a fundamentally unfair trial.” *Id.*; *citing United States v. Gunkle*, 55 M.J. 26, 31-32 (C.A.A.F. 2001).

## II. DR. [REDACTED] WOULD BE OF ASSISTANCE TO THE DEFENSE

a. To establish that an expert would be of assistance, the accused “must show (1) why the expert assistance is needed; (2) what the expert assistance would accomplish for the accused; and (3) why the defense counsel was unable to gather and present the evidence that the expert assistance would be able to develop.” *Id.*; quoting *Bresnahan*, 62 M.J. at 143.

### b. Why the expert assistance is needed.

1. Mr. Kamin’s mental health will no doubt be relevant and a major topic of discussion at trial. BSCT Records document that Mr. Kamin was previously evaluated in 2005 due to [REDACTED]. The BSCT records indicated that an [REDACTED] was to be ruled out. In order to rule out this type of disorder, it would be important to have a follow-up evaluation to determine whether the symptoms had remitted. The defense has not been provided any records that document a follow-up was completed, so the initial diagnosis cannot have been ruled out. In addition, it is unclear whether Mr. Kamin is suffering from a serious mental disorder other than an [REDACTED]. An [REDACTED] is “[REDACTED] [REDACTED].” See AMERICAN PSYCHIATRIC ASSOCIATION, *Diagnostic and Statistical Manual of Mental Disorders*, 4<sup>th</sup> Ed. (DSM-IV), pg. 679. By definition, “an [REDACTED] must resolve within six months of the termination of the stressor,” however, in this case the “stressor” is prolonged and chronic, so it may not be resolved. It is important to clearly differentiate between an [REDACTED] and another potential [REDACTED] such as an [REDACTED]. See DSM-IV-

TR, pg. 35-36. Finally, aside from diagnostic issues, the symptoms common to both [REDACTED] and [REDACTED] or [REDACTED] are similar and may cause impairment in competence-related abilities. To date, the defense has not been provided records that a qualified professional has evaluated the impact of any present psychiatric symptoms on Mr. Kamin's competence-related abilities. The defense requires an independent, qualified expert to explore this diagnosis further and assist in a determination as to whether any symptoms or conditions have increased in severity from the time of the initial BCST evaluation, as it is likely that his mental state may have further decompensated since that time.

2. In GTMO, detainees in Camps [REDACTED] [REDACTED]

[REDACTED]

[REDACTED] The Commission must acknowledge and appreciate the complexity of a mental health analysis of a young man who has experienced living in such an environment. Numerous studies have concluded that extended periods of detention in such conditions can cause significant psychiatric harm and the absence of social and environmental stimulation has been found to lead to a range of mental health problems, ranging from insomnia and confusion to hallucinations and psychosis. *See* HUMAN RIGHTS WATCH, "Locked Up Alone: Detention Conditions and Mental Health at Guantanamo," (June 2008), page 20; Peter Scharff Smith, "The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature," *Crime and Justice*, vol. 24 (2006); Lorna Rhodes, "Pathological Effects of the Super maximum Prison," *American Journal of Public Health*, vol. 95, no. 10 (2005); Brief of Amici Curiae Professors and Practitioners of Psychology and Psychiatry, *Wilkinson v. Austin*, 545 U.S. 209 (2005); Jesenia Pizarro and Vanja Stenius, "Supermax Prisons: Their Rise,



Current Practices and Effect on Inmates,” *Prison Journal*, vol. 84 (2004); Craig Haney, “Mental Health Issues in Long-Term Solitary and ‘Supermax’ Confinement,” *Crime and Delinquency*, vol. 49, no. 1 (2003); INTERNATIONAL PSYCHOLOGICAL TRAUMA SYMPOSIUM, “Statement on the use and effects of solitary confinement,” Istanbul (December 9, 2007). Detailed defense counsel is unable to analyze intelligently and adequately respond to these potential effects, whereas Dr. [REDACTED] is qualified to do so. *See Attachment E.*

3. Mr. Kamin has unequivocally rejected the Commissions system and the representation of his detailed defense counsel. It is unknown whether this rejection is a by-product of a mental disease or defect or whether it is a calculated decision to not cooperate to show solidarity with other detainees and protest his confinement and treatment. Conducting a full and thorough investigation, review, and analysis of these possibilities is not a matter of trial strategy – it is the ethical obligation of detailed defense counsel as an attorney. The defense is ethically required to determine whether Mr. Kamin is competent to stand trial, to make a knowing and voluntary waiver of his right to counsel, and/or to determine whether he suffers from a diminished capacity. *See* R.M.C. 909(a); *Dusky v. United States*, 362 U.S. 402 (1960)(*per curiam*); R.M.C. 506(c); *Faretta v. California*, 422 U.S. 806 (1975); *Indiana v. Edwards*, 128 S. Ct. 2379 (2008); Navy JAGINST 5803.1C, dated 9 Nov 04, Enclosure 1, Rule 1.2 f.2(b), Rule 1.14; Indiana Rules of Court, RULES OF PROFESSIONAL CONDUCT, Rule 1.2, Rule 1.14; ABA MODEL RULES OF PROFESSIONAL CONDUCT, Rule 1.2(a) (2002); Rule 1.2, *Comment 4*; Rule 1.14(a). Given the conditions of confinement and the possibility that Mr. Kamin may be suffering from cognitive or emotional disturbance (perhaps as a result of or a reaction to those conditions), the symptoms of which may impact upon his

competence and decision-making, it is ethically required to evaluate competency and mental capacity. The assistance and expertise of Dr. [REDACTED] is required for this determination.

4. The defense is entitled to an expert consultant that it can communicate with under cover of privilege. *See* M.C.R.E. 502(a), 502(b)(3). “One important role of expert consultants is to help counsel develop evidence.” *United States v. Warner*, 62 M.J. 114, 118 (C.A.A.F. 2005)(Crawford, J., dissenting). Defense counsel must be fully informed, with the complete confidence in the services of a defense consultant, of the ramifications of Mr. Kamin’s mental condition. Moreover, the defense must be prepared to understand, and possibly challenge, the evaluation and findings of the 706 Inquiry, if ordered by the Commission.

c. **What the expert assistance would accomplish.**

1. Dr. [REDACTED] can assist the defense in all stages of the trial. Initially, Dr. [REDACTED] would assist the defense by evaluating Mr. Kamin to determine the extent of his current emotional and mental functioning and, where any deficits may be noted, providing advice and assistance as to how to work and communicate with Mr. Kamin to overcome the deficits.

2. After completion of her full and thorough investigation and evaluation, Dr. [REDACTED] would be able to assist the defense in its analysis as to competency and mental capacity. This analysis will allow detailed defense counsel to consult the ethical rules to decide the very nature of the representation to be provided.

3. Dr. [REDACTED] may also be required to be a witness at a pre-sentencing hearing, if necessary, to testify in mitigation. *See* R.M.C. 1001(c)(1)(B); R.M.C. 703(a), (d). The defense counsel shall “have reasonable opportunity to obtain witnesses.”

M.C.R.E. 706(a). “Even if the defense-requested expert consultant would not have become an expert witness, he would have assisted the defense in evaluating, identifying, and developing evidence.” *Warner*, 62 M.J. at 118.

d. **Why the defense counsels are unable to gather and present the evidence that Dr. [REDACTED] would be able to develop.**

1. The rules require that only a physician or clinical psychologist may conduct an inquiry into the mental capacity of the accused. *See* R.M.C. 706(c)(1). No current member of the defense team is a physician or clinical psychologist. It is self-evident that defense counsels lack the education, training, knowledge, and experience to conduct a highly complex psychoanalysis and thereafter formulate expert opinions. *See* M.C.R.E. 702.

2. The advice of an independent mental health professional cannot be obtained through independent study or preparation. The defense has been provided the medical records from JTF-GTMO regarding Mr. Kamin, however, it cannot reasonably be expected to fully comprehend or understand them without the assistance of an expert consultant. Nor can defense counsel be expected to adequately evaluate and respond to any findings of a 706 Inquiry, if ordered, without the assistance of a mental health professional.

3. The appointment of an independent, civilian expert consultant is particularly crucial under these circumstances. Mr. Kamin has clearly demonstrated open hostility and resistance to the Commission and to persons wearing the uniform, including refusing to meet with his detailed defense counsel and unequivocally rejecting his representation. *See Transcript of Hearing ICO United States v. Kamin*, May 21, 2008 (Draft), pg. 9 [REDACTED]

[REDACTED]

[REDACTED] It is possible the hostility towards the Commissions and military personnel is the product of a desire to demonstrate solidarity with other detainees. Likewise, it is equally possible that hostility towards service members is a reasonable by-product of being guarded by uniformed American military service members and bitterness over being labeled an “enemy combatant” in November 2004. Finally, it is also possible the hostility is a result of illogical or paranoid ideation, not based upon reality. The cause and source of this hostility can only be evaluated by a qualified professional who is *not* affiliated with the United States military.

**III. THE DENIAL OF DR. [REDACTED] WOULD RESULT IN A  
FUNDAMENTALLY UNFAIR TRIAL**

a. “It is vain to give the accused a day in court, with no opportunity to prepare for it, or to guarantee him counsel without giving the latter any opportunity to acquaint himself with the facts or law of the case.” *Powell v. State of Ala.*, 287 U.S. 45, 59 (1932). The defense is merely asking to be provided the tools, in the form of an expert, to acquaint itself with the facts of the case, so as to afford Mr. Kamin an adequate defense.

b. “[P]roceedings must not only be fair, they must ‘appear to be fair to all who observe them.’” *Edwards*, 128 S. Ct. at 2387; *quoting Wheat v. United States*, 486 U.S. 153, 160 (1988). The consequences of not providing the defense the ability to conduct a full and thorough evaluation of mental health are enormous. “No trial can be fair that leaves the defense to a man who is insane, unaided by counsel, and who by reason of his mental condition stands helpless and alone before the court.” *Id.*; *quoting Massey v. Moore*, 328 U.S. 105, 108 (1954).

6. **Request for Oral Argument:** The defense requests oral argument as it is entitled pursuant to R.M.C. 905(h). Oral argument will allow for thorough consideration of the issues raised herein by this motion.
7. **Witness Request:** None.
8. **Conference with Opposing Counsel:** Pursuant to Military Commissions Rules of Court, Rule 3.3, the defense conferred with the prosecution regarding this motion and the prosecution opposes the requested relief.
9. **Attachments:**
- A. BSCT Record, dated Nov 05
  - B. Defense Memorandum to Convening Authority, Request for Appointment of Dr. [REDACTED], Ph.D., dated 20 June 2008.
  - C. Convening Authority Memorandum to Defense Counsel, Denial of Request for Appointment of Dr. [REDACTED], Ph.D., dated 25 June 2008.
  - D. Defense Memorandum to Convening Authority, Request for Appointment of Dr. Patricia [REDACTED], Ph.D., dated 2 July 2008.
  - E. *Curriculum Vitae*, Dr. [REDACTED]
  - F. Convening Authority Memorandum to Defense Counsel, Denial of Request for Appointment of Dr. [REDACTED], Ph.D., dated 14 July 2008.
  - G. Defense Memorandum to Convening Authority, Supplemental Request for Appointment of Dr. [REDACTED], Ph.D., dated 14 July 2008.
  - H. Convening Authority Memorandum to Defense Counsel, Denial of Supplemental Request for Appointment of Dr. [REDACTED] Ph.D., dated 15 July 2008.

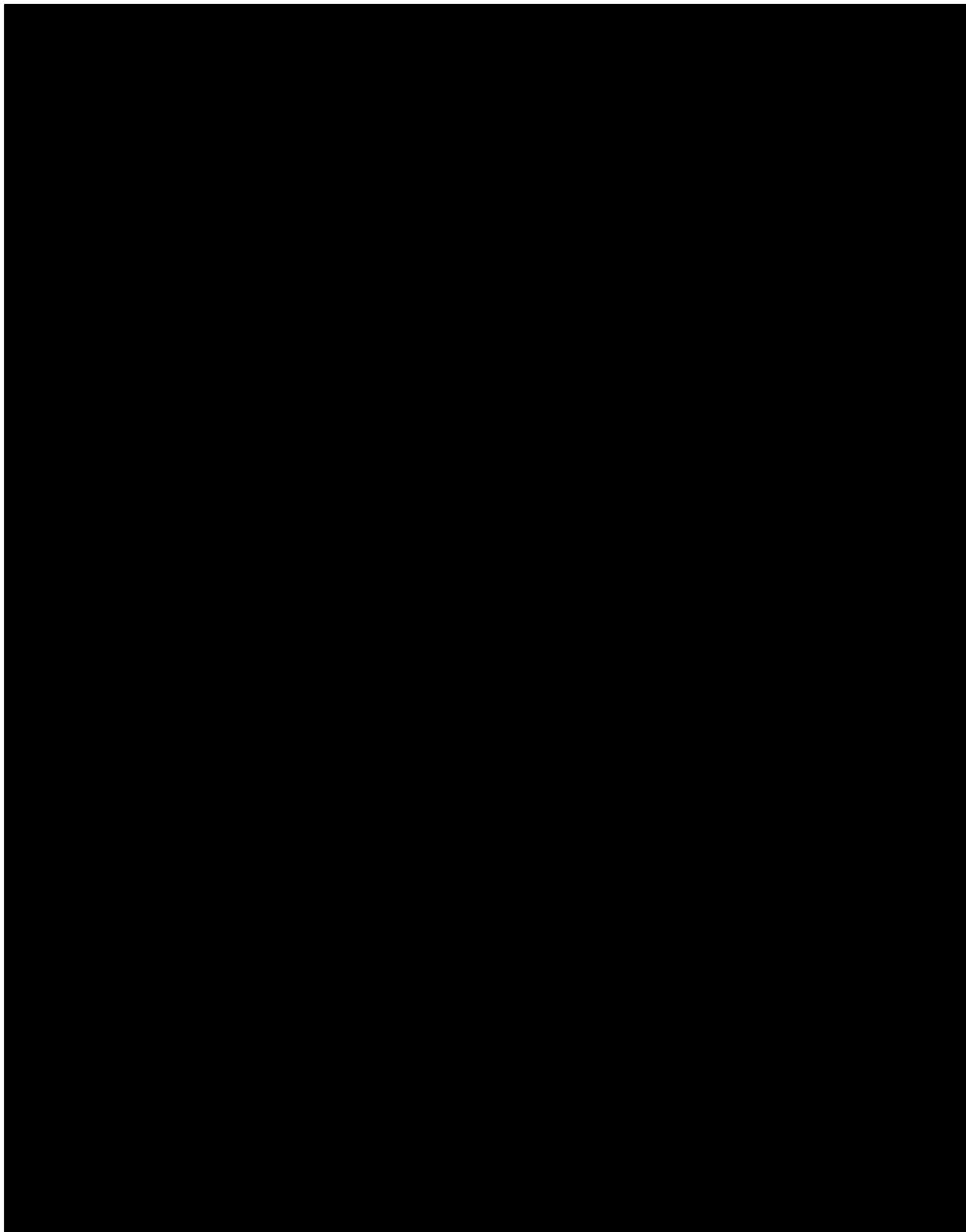
Respectfully submitted,

By: *Richard E.N. Federico*  
LT RICHARD E.N. FEDERICO, JAGC, USN  
*Detailed Defense Counsel for Mohammed Kamin*

Office of the Chief Defense Counsel  
Office of Military Commissions

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# **ATTACHMENT A**





# **ATTACHMENT B**

Office of the Chief Defense Counsel  
Office of the Military Commissions

Phone: [REDACTED]

Fax: [REDACTED]

20 June 2008

MEMORANDUM FOR THE CONVENING AUTHORITY

Subj: REQUEST FOR APPOINTMENT OF EXPERT CONSULTANT DR.  
[REDACTED] M.A., PH.D., TO DEFENSE TEAM ICO  
*UNITED STATES V. MOHAMMED KAMIN*

1. The defense in *United States v. Mohammed Kamin*, respectfully requests the Convening Authority approve Dr. [REDACTED] M.A., Ph.D., as an expert consultant in the field of clinical psychology.

2. Qualifications: Dr. [REDACTED] M.A., Ph.D. is a licensed clinical psychologist, adjunct professor and co-founder of the Portia Bell Hume Behavioral Health and Training Services. Dr. [REDACTED] has received his M.A. in organizational consultation from John F. Kennedy University in 1989 and has acquired a Ph.D. in clinical psychology from Rosebridge Graduate School (presently Argosy University) in 1993. Dr. [REDACTED] has held and served many multiple clinical and administrative positions at the Hume Center. He has been Assistant Director to the Outpatient Services from 1995-97 and has been Director of Partial Hospitalization Program from 1997-2000. Presently, Dr. [REDACTED] is serving as a senior clinical supervisor at the Hume Center. Dr. [REDACTED] has also served as an Adjunct Professor at John F. Kennedy University from 1993-96 and has taught at the Alliant International University (CAPP) and has been teaching at Chabot Community College for the past 13 years. Dr. [REDACTED] has been a community Radio Psychologist for the past seven years, serving primarily the Afghan Community. He has spoken/written extensively on multicultural issues, relevant to the field of clinical Psychology. He has provided consultation, training and clinical services to diverse cliental population. He is the founding president of the Afghan Psychological Association of America, which is a non-profit organization focusing on healing psychological trauma in Afghanistan.

3. Dr. [REDACTED] address and telephone number:

[REDACTED]

4. Complete statement of reasons why Dr. [REDACTED] is necessary:

a. Why the expert consultant is needed:

Subj: REQUEST FOR APPOINTMENT OF EXPERT CONSULTANT DR.  
[REDACTED] M.A., PH.D., TO DEFENSE TEAM ICO  
*UNITED STATES V. MOHAMMED KAMIN*

- i. During his arraignment on 21 May 2008, Mr. Kamin repeatedly stated that he did not want the assistance of his detailed military lawyer, that he did not intend to represent himself, and that he did not want to be present for any future proceedings. [REDACTED]

[REDACTED]

Arraignment, *United States v. Kamin*, page 1 (21 May 2008). The night prior to the arraignment, the defense was made aware by Major Omar Ashmawy, U.S. Air Force, Trial Counsel, that Mr. Kamin may have a history of mental illness. The defense must ensure that Mr. Kamin is competent to make a knowing and voluntary waiver of his right to counsel and/or is competent to stand trial. See R.M.C. 506(c); R.M.C. 909(a); *Faretta v. California*, 422 U.S. 806 (1975); *Dusky v. United States*, 362 U.S. 402 (1960)(per curiam). The assistance of Dr. [REDACTED] is critical to this determination.

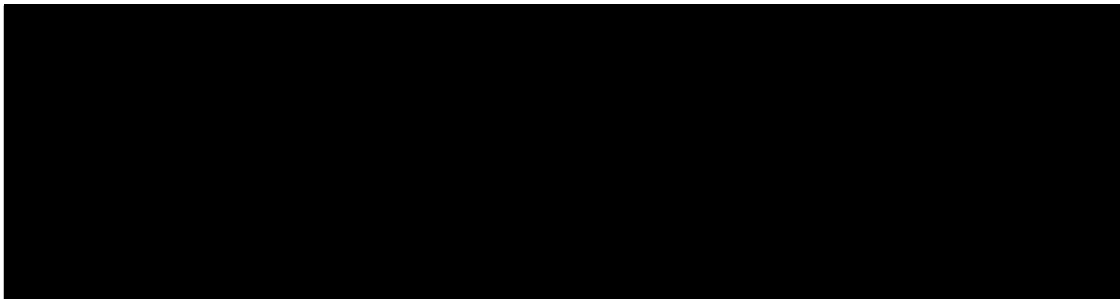
- ii. A complete mental health evaluation must be conducted in order to determine if Mr. Kamin suffers from a mental disorder. It must be determined whether Mr. Kamin has any symptoms of any syndrome, including but not limited to Post Traumatic Stress Disorder, which may affect his ability to understand the proceedings against him and/or to consult with his lawyer with a reasonable degree of rational understanding.
- b. What Dr. [REDACTED] would accomplish for Mr. Kamin:
    - i. Dr. [REDACTED] could provide an assessment of the current mental status of the Mr. Kamin to determine competency and the fundamentals of a legal defense: counsel rights, recollection of events, whether to testify, etc.
    - ii. It must be determined what effects his lengthy confinement and treatment have had upon Mr. Kamin. This may assist in a determination as to competency and/or a case in mitigation, if necessary.
  - c. Why the defense counsel is unable to gather the present evidence:

Subj: REQUEST FOR APPOINTMENT OF EXPERT CONSULTANT DR.  
KAHLIL R. [REDACTED] M.A., PH.D., TO DEFENSE TEAM ICO  
*UNITED STATES V. MOHAMMED KAMIN*

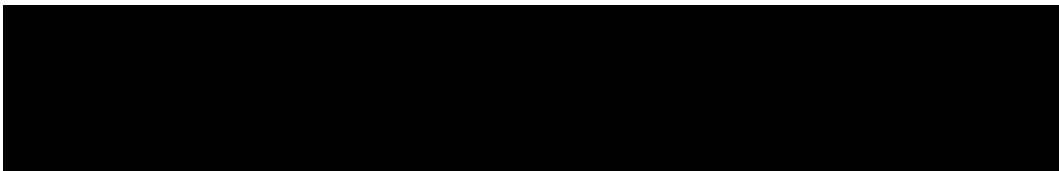
- i. The detailed defense counsel lacks the knowledge, education, training, or experience to conduct a mental health evaluation and/or formulate any opinions that may assist the Commission in a determination of any facts at issue. The advice of an independent mental health professional cannot be obtained through independent study or preparation. To assist the defense in determining what issues, if any, even need to be raised before the Commission, it will require a mental health evaluation sufficient for Dr. [REDACTED] to formulate relevant opinions to these issues.
- ii. Dr. [REDACTED] is ideally qualified to be a defense consultant because he is a clinical psychologist, a native of Afghanistan, and speaks Pashto, the same language as Mr. Kamin. There can be no “adequate substitute” for having an expert consultant with the same cultural and language background as Mr. Kamin. *See United States v. Warner*, 62 M.J. 114 (C.A.A.F. 2005). This is vitally important to allow the expert to develop the professional rapport necessary to conduct a thorough evaluation

5. Estimated Cost:

- a. Total hours/days and total cost:



- b. Total days TDY at the per diem rate



- c. Travel costs, if any:

Dr. [REDACTED] would require travel from his residence in [REDACTED] to Guantanamo Bay, Cuba and lodging for all time away from his residence.

- d. Rate for professional services and hours/days (when travel is not involved):

Subj: REQUEST FOR APPOINTMENT OF EXPERT CONSULTANT DR.  
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[REDACTED] for consultative services.

e. Inconvenience fee, if any:

None requested.

6. On 20 June 2008, I notified the opposing party of this request.

7. If approved, a Memorandum of Agreement, detailing the terms contained herein, will be signed by Dr. [REDACTED] and returned to you for signature. *See Regulation for Trial by Military Commission, 13-7.* In the event this request is denied, the defense respectfully requests a written response that details the reasons for the denial. Should you require further information, please contact me at [REDACTED]



Richard E.N. Federico  
LT, JAGC, USN  
Detailed Defense Counsel

CC: B.Gen Hartmann, Legal Advisor  
Maj Ashmawy, Trial Counsel  
LT Trest, Assistant Trial Counsel

# **ATTACHMENT C**



OFFICE OF THE SECRETARY OF DEFENSE  
OFFICE OF MILITARY COMMISSIONS

CONVENING AUTHORITY

25 June 2008

MEMORANDUM FOR LT Richard Federico, Office of Defense Counsel

SUBJECT: *U.S. v. Kamin*: Response to Request for an Expert Consultant

I have reviewed your 20 June 2008 request for employment of Dr. [REDACTED] as an expert consultant in the field of clinical psychology. As explained below, the request lacks sufficient justification as required by R.M.C. 703(d).

In the request you assert that:

(a) complete mental health evaluation must be conducted in order to determine if Mr. Kamin suffers from a mental disorder. It must be determined whether Mr. Kamin has any symptoms of any syndrome, including but not limited to Post-Traumatic Stress Disorder, which may affect his ability to understand the proceedings against him and /or to consult with his lawyer with a reasonable degree of understanding.

You cite a statement by the trial counsel that the accused may have a history of mental illness, Mr. Kamin's refusal to cooperate at his arraignment, and his attempt to assault a guard while en route to his arraignment to support your request for the expert.

R.M.C. 703(d) states that a request for an expert consultant "shall include a complete statement of the reasons why the expert is necessary." In construing R.M.C. 703(d), I have consistently applied the test set forth in *United States v. Bresnahan*, 62 M.J. 137, 143 (C.A.A.F. 2005) (internal citations omitted):

An accused is entitled to an expert's assistance before trial to aid in the preparation of his defense upon a demonstration of necessity. But necessity requires more than the "mere possibility of assistance from the requested expert . . ." The accused must show that a reasonable probability exists "both that an expert would be of assistance to the defense and that denial of an expert would result in a fundamentally unfair trial."

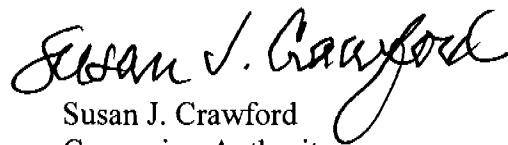
We apply a three-part test to determine whether expert assistance is necessary. The defense must show (1) why the expert assistance is needed; (2) what the expert assistance would accomplish for the accused; and (3) why the defense counsel were unable to gather and present the evidence that the expert assistance would be able to develop. A military judge's ruling on a request for expert assistance will not be overturned absent an abuse of discretion.



I understand that the Trial Counsel did not have access to Mr. Kamin's health records prior to arraignment and so was not in a position to say whether he had a history of mental illness. You now have a copy of Mr. Kamin's health records. If they reference mental health issues you have raised, please provide the records, and I will consider your request in light of that information.

Your request for Dr. [REDACTED] only speculates that Mr. Kamin may suffer from a mental disease or defect which may render him unable to understand the nature of the proceedings against him or to conduct or cooperate intelligently in his defense. Such speculation is insufficient under R.M.C. 703(d) to support a request for expert assistance.

I encourage you to continue to pursue your requests with more detailed factual support consistent with case law.

  
Susan J. Crawford  
Convening Authority  
for Military Commissions



# **ATTACHMENT D**

**Office of the Chief Defense Counsel  
Office of the Military Commissions**

**Phone:**

**Fax:**

2 July 2008

MEMORANDUM FOR THE CONVENING AUTHORITY

Subj: REQUEST FOR APPOINTMENT OF EXPERT CONSULTANT DR.  
[REDACTED], PH.D., TO DEFENSE TEAM ICO  
*UNITED STATES V. MOHAMMED KAMIN*

1. The defense in *United States v. Mohammed Kamin*, respectfully requests the Convening Authority approve Dr. [REDACTED], Ph.D., as an expert consultant in the field of clinical and forensic psychology.
2. Qualifications: Dr. [REDACTED] is a licensed psychologist in Alabama, Florida, and New York. Dr. [REDACTED] is an Associate Professor of Psychology at the John Jay College of Criminal Justice, The City University of New York, and a Faculty Affiliate at the Mental Health, Law, and Policy Institute, Simon Fraser University. Dr. [REDACTED] received a Ph.D. in Clinical Psychology with a specialization in Forensic from Simon Fraser University in 1999; a M.A. in Clinical Psychology with a specialization in Forensic from Simon Fraser University on 1995; and a B.A. (Honors) in Psychology from the University of Alberta in 1993. Dr. [REDACTED] has received numerous awards and grants for her work in psychology. Dr. [REDACTED] is a member of or affiliated with a number of psychology organizations, has extensive clinical training and consultancy experience and licensures, has been published in many peer reviewed articles and books, and has been qualified as an expert witness in U.S. federal court and state court in Alabama. Dr. [REDACTED] was provided a security clearance and testified in the case of *United States v. Jose Padilla*, United States District Court, Southern District of Florida. For your review, enclosed is Dr. [REDACTED]'s Curriculum Vitae.
3. Dr. [REDACTED]'s address and telephone number:  
[REDACTED]
4. Complete statement of reasons why Dr. [REDACTED] is necessary:
  - a. Why the expert consultant is needed:

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- i. The defense must ensure that Mr. Kamin is competent to make a knowing and voluntary waiver of his right to counsel, is competent to stand trial, and/or determine whether he suffers from a diminished capacity. *See* R.M.C. 506(c); R.M.C. 909(a); *Faretta v. California*, 422 U.S. 806 (1975); *Dusky v. United States*, 362 U.S. 402 (1960)(per curiam). The assistance of Dr. [REDACTED] critical to this determination. Records<sup>1</sup> from the Healthcare Services Case Review/Treatment Team (BSCT), JTF-GTMO indicate that Mr. Kamin was previously evaluated in 2005 by the BSCT due to [REDACTED]. The defense requires an independent, qualified expert to explore this diagnosis further and assist in a determination as to whether any symptoms or conditions there from have increased in severity from the time of this diagnosis.
- ii. The defense is ethically required to determine whether Mr. Kamin suffers from any diminished capacity to make adequately considered decisions in connection with representation. *See* Indiana<sup>2</sup> Rules of Professional Responsibility, Rule 1.14(a). During his arraignment on 21 May 2008, Mr. Kamin repeatedly stated that he did not want the assistance of his detailed military lawyer, that he did not intend to represent himself, and that he did not want to be present for any future proceedings. As the defense seeks to navigate the murky ethical waters in which it currently sails, it must investigate and explore with the assistance of a qualified professional the mental health status of Mr. Kamin.

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<sup>1</sup> In your denial of my request for appointment of Dr. [REDACTED], dated 25 June 2008, you incorrectly state that the defense has a copy of Mr. Kamin's health records. Despite numerous requests to the prosecution and an Order from the Military Judge, the defense has been provided only 33 pages of records detailing cursory evaluations by the Behavioral Healthcare Services Case Review/Treatment Team (BSCT), JTF-GTMO. You further invite defense to provide copies of these records for your consideration. In light of the Memorandum issued by [REDACTED], Assistant Secretary of Defense, dated May 2, 2008 and the Memorandum issued by [REDACTED], USA, Deputy Commander, JTF-GTMO, the defense does not believe it would be proper to provide copies of the few records in its possession, as it lacks the prerequisite authorization and/or confidentiality agreement to do so. Further, in light of the government's apparent refusal to provide relevant and material medical records to the defense, the defense requests that substantial deference be given to this request for any evidentiary support of factual contentions you deem lacking.

<sup>2</sup> Detailed Defense Counsel is licensed to practice law in the State of Indiana.

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- iii. Mr. Kamin has been in prison in GTMO for several years.<sup>3</sup>  
[REDACTED]  
[REDACTED]. Numerous studies have concluded that extended periods of detention in such conditions can cause significant psychiatric harm and the absence of social and environmental stimulation has been found to lead to a range of mental health problems, ranging from insomnia and confusion to hallucinations and psychosis. *See Locked Up Alone: Detention Conditions and Mental Health at Guantanamo, Human Rights Watch, June 2008, page 20; Peter Scharff Smith, "The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature," Crime and Justice, vol. 24 (2006); Lorna Rhodes, "Pathological Effects of the Super maximum Prison," American Journal of Public Health, vol. 95, no. 10 (2005); Brief of Amici Curiae Professors and Practitioners of Psychology and Psychiatry, Wilkinson v. Austin, 545 U.S. 209 (2005); Jesenia Pizarro and Vanja Stenius, "Supermax Prisons: Their Rise, Current Practices and Effect on Inmates," Prison Journal, vol. 84 (2004); Craig Haney, "Mental Health Issues in Long-Term Solitary and 'Supermax' Confinement," Crime and Delinquency, vol. 49, no. 1 (2003); International Psychological Trauma Symposium, "Statement on the use and effects of solitary confinement," Istanbul, December 9, 2007. The defense counsel is unable to intelligently analyze these potential effects, whereas Dr. [REDACTED] is qualified to do so.*
- b. What Dr. [REDACTED] would accomplish for Mr. Kamin:
- i. Dr. [REDACTED] could provide an assessment of the current mental status of Mr. Kamin, including what impact, if any, prolonged confinement and isolation has had on his ability to be legally competent to stand trial, to waive his right to counsel, and/or actively participate in his own defense and assist counsel in that effort.
- ii. Assuming, the government ever provides all the relevant medical records to the defense, either voluntarily or in compliance with an order from the Commission, Dr. [REDACTED] can assist the defense in analyzing these records to recreate the history of mental health

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<sup>3</sup> Again, the defense has received no discovery from the government relevant to this contention and is thus unable to provide any detail as to the length of confinement, specific camp locations, conditions of confinement, etc. However, information from "open sources" reveals undoubtedly that the facts contained herein are true.

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*UNITED STATES V. MOHAMMED KAMIN*

status of Mr. Kamin since he has been in the custody of the United States government.

- iii. Dr. [REDACTED] could further provide guidance to defense counsel that may assist in determining the ethical obligations of representing a client that has refused to meet with or be represented by detailed defense counsel.
- iv. Dr. [REDACTED] may assist the defense in determining what issues or requests for relief, if any, must be raised with the Commission. Dr. [REDACTED] may also later be prepared to assist the Commission by acting as an expert witness on the resolution of material facts at issue.

c. Why the defense counsel is unable to gather the present evidence:

- i. The detailed defense counsel lacks the knowledge, education, training, or experience to conduct a mental health evaluation and/or formulate any opinions that may assist the Commission in a determination of any facts at issue. The advice of an independent mental health professional cannot be obtained through independent study or preparation. To assist the defense in determining what issues, if any, even need to be raised before the Commission, it will require a mental health evaluation sufficient for Dr. [REDACTED] to formulate relevant opinions to these issues.

5. Estimated Cost:

a. Total hours/days and total cost:

The fee for all time and services by Dr. [REDACTED] is [REDACTED]. Fees for service shall include, but not be limited to, charges for test scoring, test interpretation, telephone contacts with Dr. [REDACTED] professional consultations, interviews, broken and cancelled appointments, reviewing documents, preparing affidavits, reserving time for testimony, and photocopying.

The defense requests authorization for up to [REDACTED] of services, so that she may: review records; travel to/from Guantanamo Bay, Cuba; have sufficient time to build rapport and evaluate Mr. Kamin; memorialize her findings and opinions; consult directly with the defense team as to her findings; and, if necessary, prepare to be called as an expert witness at trial. The defense therefore requests authorization for up to [REDACTED] in fees to Dr. [REDACTED]

b. Total days TDY at the per diem rate

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To conduct a standard consultation, Dr. [REDACTED] will require [REDACTED] days with Mr. Kamin, with [REDACTED] travel to and from Guantanamo Bay, Cuba. Also, if Dr. [REDACTED] were to be called upon to testify, further days TDY would be required.

c. Travel costs, if any:

The government shall also be responsible for costs of travel to/from Guantanamo Bay, Cuba and lodging for all time away from her residence. Exact costs are to be determined.

d. Rate for professional services and hours/days (when travel is not involved):

Fees for direct evaluation and consultation services are outlined above. In addition, telephone consultations with Dr. [REDACTED] are billed at a rate of [REDACTED] or any portion thereof. This includes time reserved for scheduled telephone conferences that are missed or broken by attorneys, parties, or collaterals. Charges for photocopying and mailing are [REDACTED] plus handling and mailing charges.

e. Inconvenience fee, if any:

None requested.

6. On 2 July 2008, I notified the opposing party of this request.

7. If approved, a Memorandum of Agreement, detailing the terms contained herein, will be signed by Dr. [REDACTED] and returned to you for signature. See Regulation for Trial by Military Commission, 13-7. In the event this request is denied, the defense respectfully requests a written response that details the reasons for the denial. Should you require further information, please contact me at [REDACTED] I will be traveling to Guantanamo Bay, Cuba the week of 7-11 July and can be reached at [REDACTED]



Richard E.N. Federico  
LT, JAGC, USN  
Detailed Defense Counsel

Encl: [REDACTED] Curriculum Vitae (15 pgs.)


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cc: BG Hartmann, Legal Advisor  
Maj Ashmawy, Trial Counsel  
LT Trest, Assistant Trial Counsel

# **ATTACHMENT E**



# Curriculum Vitae

  
**Department of Psychology**  
**John Jay College of Criminal Justice**  
**The City University of New York**  
**445 West 59<sup>th</sup> Street**  
**New York, NY 10019-1128**

## Education

Ph.D., Simon Fraser University (1999)

Area of Study: Clinical Psychology with specialization in Forensic (APA/CPA accredited)

Dissertation: *An investigation of the construct of competence in a criminal and civil context: A comparison of the FIT, the MacCAT-CA, and the MacCAT-T.*

M.A., Simon Fraser University (1995)

Area of Study: Clinical Psychology with specialization in Forensic (APA/CPA accredited)

Thesis: *Assessing fitness to stand trial: Characteristics of fitness remands and comparison of institution-based evaluations and the Fitness Interview Test - Revised.*

B.A. (Honors), University of Alberta (1993)

Area of Study: Psychology

Thesis: *The relationship between types of crime and personality.*

## Awards

Louise McKinney Scholarship (1992)

Natural Sciences and Engineering Research Council of Canada Summer Research Grant (1992)

Margaret Ruth Crawford Memorial Scholarship in Psychology (1993)

Natural Sciences and Engineering Research Council of Canada Summer Research Grant (1993)

Simon Fraser University Graduate Fellowship (1995)

B. C. Medical Services Foundation Summer Scholarship (1995)

Social Science & Humanities Research Council of Canada (SSHRC) Fellowship (1995; declined 1996-99)

Lorne M. Kendall Memorial Scholarship in Psychology (1996)

Nominee for the Governor-General's Gold Medal and Dean's Convocation Medal (1996 & 2000)

British Columbia Health Research Foundation Student Fellowship (1996 - 1998)

American Academy of Forensic Psychology Dissertation Grant (1997)

American Psychology-Law Society Dissertation Grant (1997)

Simon Fraser University President's Dissertation Grant (1998)

American Psychological Association Science Directorate Travel Award (1998)

Lorne M. Kendall Memorial Scholarship in Psychology (1999)

Canadian Psychological Association Excellence in Research (Dissertation) Award (2000)

Nominee for the AP-LS/AAFP Saleem Shah Award for Early Career Contributions in Psychology and Law (2001, 2002)

Presidential Research Award, John Jay College of Criminal Justice (2003-2004)

American Psychological Association Fellow (2006)

## Academic Positions

Department of Psychology, John Jay College of Criminal Justice, The City University of New York

*Position:* Associate Professor, Tenured in 2004 (2002 – present)

Director, Forensic Psychology Research Institute (2002 – 2006)

Director of Clinical Training and Deputy Director, PhD Program in Forensic Psychology (2003 – 2006)

*Graduate Courses:* Research Methods in Criminal Justice; Psychology of Criminal Behavior; Forensic Diagnostic Interviewing; Criminal Forensic Assessment; Clinical (Forensic) Interviewing

*Undergraduate Courses:* Psychological Analysis of Criminal Behavior

Department of Mental Health Law & Policy, The Louis de la Parte Florida Mental Health Institute

*Position:* Courtesy Associate Professor (November 2006 – August 2008)

Mental Health, Law, and Policy Institute, Simon Fraser University

*Position:* Faculty affiliate (September 1999 – present)

Department of Psychology, University of Alabama

*Position:* Assistant Professor (Tenure Track, 1999 – 2002)

*Graduate Courses:* Criminal Forensic Assessment; Forensic Practicum; Legal and Ethical Issues in Psychology

*Undergraduate Courses:* Psychology, Law, and Criminal Justice; Senior Seminar in Forensic Psychology; Directed Studies

## Certification and Licensure

July 2007 – Present                      Licensed Psychologist: Florida License #7524

January 2004 – Present                Licensed Psychologist: New York License #015794

February 2001 – October 2003      Certified Forensic Examiner: Alabama

November 1999 – Present            Licensed Psychologist: Alabama License #1066

## Professional Memberships and Activities

American Psychological Association

Member (1997 – 2005); Annual reviewer for conference submissions

Fellow (2006 – present)

American Psychology - Law Society (American Psychological Association, Division 41)

Member (1995 - present); Student Editor, *Law and Human Behavior* (1995 - 1997); Chair, Dissertation Awards

Committee (2000 – 2004); Annual reviewer for conference submissions; Co-chair for the 2004 conference in

Scottsdale, AZ; Member, Careers and Training Committee (2003 – 2005); Executive Committee (Secretary; 2005 – 2008)

Canadian Psychological Association

Member (1997 - 1999)

International Academy of Law and Mental Health

Member (2000 – 2005)

International Association of Forensic Mental Health Services

Member (2000 – present)

Mental Health, Law, and Policy Institute; Simon Fraser University

Associate member (2000 – present)

The Constitution Project's Blue-Ribbon Committee on Mental Health Testimony in Alabama Capital Cases (2001 – present)

## **Editorial Responsibilities**

Associate Editor

*Encyclopedia of Psychology and Law* (2008) Published by Sage

Associate Editor (August 2005 – present)

*Law and Human Behavior*

Associate Editor (2001 – 2005)

*Journal of Forensic Psychology Practice*; Editor, Practice Update section

Editorial Board Member (2001 – present)

AP-LS Book Series

Editorial Board Member (2001 – present)

*International Journal of Forensic Mental Health*

Editorial Consultant (1999 – present)

*Law and Human Behavior*; *Media Psychology*; *Psychology, Public Policy, and Law*; *Police Quarterly*; *Professional Psychology: Research and Practice*; *Behavioral Sciences and the Law*; *Psychology, Crime, and Law*

## **Research Grants**

PSC-CUNY Research Grant (2004)

Title: *A Comparison of Competence-Related Abilities and Cognitive Abilities*

Investigator: [REDACTED]

Amount: \$4,320

Presidential Research Grant, John Jay College of Criminal Justice (2003-2004)

Title: *A Program of Study on the Assessment of Criminal Competencies*

Investigator: [REDACTED]

Amount: \$7,000

PSC-CUNY Research Grant (2003)

Title: *A Comparison of the MacCAT-CA and the FIT for Making Determinations of Competency to Stand Trial*

Investigator: [REDACTED]

Amount: \$5,000

Deutscher Akademischer Austausch Dienst (2002)

Title: *An Investigation of the German Legal System with Respect to Incompetent Offenders*

Investigator: [REDACTED]

Amount: \$7,500

University of Alabama, Research Advisory Committee (2002)

Title: *An Investigation and Comparison of Legal Proceedings of Competency to Stand Trial in Germany, Canada, and the United States*

Investigator: [REDACTED]

Amount: \$5,000

University of Alabama, Research Advisory Committee (2000)

Title: *An Investigation of Four Competence-Related Abilities*

Investigator: [REDACTED]

Amount: \$5,000

Social Sciences and Humanities Research Council of Canada (1996-1999)

Title: *Assessing Fitness to Stand Trial: Studies on the Reliability and Validity of the FIT (Revised Edition)*

Investigators: [REDACTED]

Amount: \$66,000

## **Clinical Training**

Florida Mental Health Institute, University of South Florida

APA accredited internship in clinical psychology; assessment, intervention, and consultation at the following sites: Mobile Crisis Response Team, Tampa Bay Technical High School Mental Health Program, Moffitt Cancer Centre, USF Counseling Centre, Zephyrhills Correctional Institution (1998 – 1999)

Correctional Service of Canada, Kent Maximum Security and Mountain Medium Security Institutions

Correctional Psychologist (PS-02); intake and risk assessments of federal inmates being considered for programming or release; risk assessment of inmates being detained under Dangerous Offender legislation (1997)

Surrey Pretrial Mental Health Project, Surrey Pretrial Services Centre

Intake assessment of men remanded in custody for mental illness, suicide risk, and violence potential (1995-1997)

Alberta Hospital, Edmonton

APA/CPA accredited practicum in clinical forensic psychology; forensic, psychodiagnostic, and neuropsychological assessment of individuals court-ordered or remanded for assessment or treatment; co-facilitated inpatient young offender relapse prevention group; co-facilitated inpatient young offender psychodynamic group; assertiveness training; co-facilitated outpatient adult sex offender group (1994)

Clinical Psychology Centre, Simon Fraser University

Clinical intervention; intake interviews with clients seeking therapy; cognitive-behaviour therapy; psychodynamic therapy (1993 - 1998)

## **Consultancies**

Program Evaluation Consultant

Eleventh Judicial Circuit Criminal Mental Health Project (Dade County, FL). Evaluation reports; statistical consulting; data analysis; data presentation

Program Evaluation Consultant

National Strategy Information Center (NSIC; Washington, DC) Culture of Lawfulness Project in Bogotá and Medellín, Colombia and in Panama City, Panama. Evaluation reports; statistical consulting; data analysis; program design; instrument development and validation; program evaluation

Research and Statistical Consultant

Center for Alternative Sentencing and Employment Services (CASES; New York City) EXIT Program grant funded by SAMHSA. Evaluation reports; statistical consulting; data analysis; research design/program implementation (2002-2005)

Certified Forensic Examiner, State of Alabama, Tuscaloosa County

Conduct forensic evaluations for the State of Alabama in Tuscaloosa County; competency to stand trial, competency to waive Miranda rights, competency to be sentenced, competency to participate in probation revocation hearing, pre-sentence evaluations, mental state at time of the offense, juvenile evaluations; expert testimony (2001-2003)

Independent Practice

Consultation with attorneys regarding various criminal competencies, insanity, mitigation, and neuropsychological issues; Forensic evaluation of competency to stand trial, competency to waive Miranda, competency to plead guilty, mental state at the time of offense, and mitigation in capital murder cases; expert testimony (1999-present)

## Expert Witness Experiences

*United States v. Jose Padilla, United States District Court, Southern District of Florida*

Testified regarding competency to stand trial before Judge Marcia G. Cooke (22 February 2007)

*State of Alabama v. Ronnie Diyon Ball, Circuit Court of Tuscaloosa County*

Testified regarding competency to stand trial before Judge John H. England (9 July 2001)

*State of Alabama v. Joe Lee Sanders, Circuit Court of Tuscaloosa County*

Testified regarding competency to stand trial before Judge Thomas S. Wilson (10 July 2001)

*State of Alabama v. Saxon Renard Maye, Circuit Court of Tuscaloosa County*

Testified regarding competency to stand trial before Judge Thomas S. Wilson (4 September 2001)

*State of Alabama v. Barney Huey Gilliland, Circuit Court of Tuscaloosa County*

Testified regarding competency to stand trial before Judge Thomas S. Wilson (12 September 2001)

*State of Alabama v. Vonkeeshun Hamler Ball, Circuit Court of Tuscaloosa County*

Testified regarding competency to waive Miranda rights stand trial before Judge Thomas S. Wilson (21 September 2001)

*State of Alabama v. Barney Huey Gilliland, Circuit Court of Tuscaloosa County*

Testified regarding mental state at time of offense before Judge Thomas S. Wilson (24 September 2001)

*State of Alabama v. James Edward Maddox, Circuit Court of Tuscaloosa County*

Testified regarding competency to stand trial before Judge John H. England (5 November 2001)

*State of Alabama v. Herman Jordan, III, Circuit Court of Tuscaloosa*

Testified regarding competency to stand trial before Judge Thomas S. Wilson (22 January 2002)

*State of Alabama v. Paris Donniel Woods, Circuit Court of Tuscaloosa County*

Testified regarding competency to stand trial and malingering before Judge John H. England (6 February 2002)

*State of Alabama v. Ronnie Diyon Ball, Circuit Court of Tuscaloosa County*

Testified regarding mental state at the time of offense before Judge John H. England (28 May 2002)

*State of Alabama v. Elinda A. Miles, Circuit Court of Tuscaloosa County*

Testified regarding competency to stand trial before Judge John H. England (29 August 2002)

## Peer-Reviewed Journal Articles

(in press). Comprehension of *Miranda* rights in psychiatric patients. *Law and Human Behavior*.

(in press). An investigation of psychologists' practices and attitudes toward participation in capital evaluations. *Journal of Forensic Psychology Practice*.

(2008). Validation of an abbreviated version of the Structured Interview of Reported Symptoms across outpatient psychiatric and community settings. *Law and Human Behavior*, 32, 177-186.

(2008). Competence-related abilities and psychiatric symptoms: An analysis of the underlying structure and correlates of the MacCAT-CA and the BPRS. *Law and Human Behavior*, 32, 64-77.

(2007). Adjudicative competence and comprehension of *Miranda* rights in adolescent defendants: A comparison of legal standards. *Behavioral Sciences and the Law*, 25, 1-19.

(2006). Transfer to adult courts: A national study of how juvenile court judges weigh pertinent *Kent* criteria? *Psychology, Public, Policy, and Law*, 12, 332-355.

(2006). Readability of *Miranda* warnings and waivers: Implications for evaluating

Miranda comprehension. *Law and Psychology Review*, 30, 119-142.

[REDACTED] (2005). Judges' and psychologists' assessments of legal and clinical factors in competence for execution. *Psychology, Public Policy, and Law*, 11, 164-193.

[REDACTED] (2005). Competency for execution assessments: Ethical continuities and professional tasks. *Journal of Forensic Psychology Practice*, 5, 65-74.

[REDACTED] (2005). An investigation of the construct of competence: A comparison of the FIT, the MacCAT-CA, and the MacCAT-T. *Law and Human Behavior*, 29, 229-252.

- Reprinted in (2007) [REDACTED]. (Eds.) *Clinical forensic psychology and law*. Hampshire, UK: Ashgate.

[REDACTED] (2005). Factor structure and validity of the MacArthur Competence Assessment Tool—Criminal Adjudication. *Psychological Assessment*, 17, 433-445.

[REDACTED] (2004). Dispositional decisions with the mentally ill: Police perceptions and characteristics. *Police Quarterly*, 7, 295-310.

[REDACTED] (2004). An investigation of discrepancies between mental health professionals and the courts in decisions about competency. *Law and Psychology Review*, 28, 109-132.

[REDACTED] (2004). Have the courts abdicated their responsibility for determination of competency to stand trial to clinicians? *Journal of Forensic Psychology Practice*, 4, 27-44.

[REDACTED] (2003). Predictor variables in competency to stand trial decisions. *Law and Human Behavior*, 27, 423-436.

[REDACTED] (2003). Irrational and rational understandings of death: Issues of malingering and disordered thinking about death. *American Journal of Forensic Psychology*, 21, 65-77.

[REDACTED] (2003). The role of demographic, criminal, and psychiatric variables in examiners' predictions of restorability to competency to stand trial. *International Journal of Forensic Mental Health*, 2, 145-155.

[REDACTED] (2003). Competency restoration: An examination of the differences between defendants predicted restorable and not restorable to competency. *Law and Human Behavior*, 27, 127-139.

[REDACTED] (2003). Juvenile competence to stand trial evaluations: A survey of current practices and test usage among psychologists. *Professional Psychology: Research and Practice*, 34, 499-507.

[REDACTED] (2003). Assessment of maturity in juvenile competency to stand trial evaluations: A survey of practitioners. *Journal of Forensic Psychology Practice*, 3, 23-45.

[REDACTED] (2003). The role of Canadian psychologists in conducting fitness and criminal responsibility evaluations. *Canadian Psychology*, 44, 369-381.

[REDACTED] (2003). Diagnosis, current psychiatric symptoms, and the ability to stand trial. *Journal of Forensic Psychology Practice*, 3, 23-37.

[REDACTED] (2003). Assessment of competency for execution: Professional guidelines and an evaluation checklist. *Behavioral Sciences and the Law*, 21, 103-120.

[REDACTED] (2003). Issues and considerations regarding the use of assessment instruments in the evaluation of competency to stand trial. *Behavioral Sciences and the Law*, 21, 351-367.

[REDACTED]. (2002). Psychiatric patients' competency to collude with hospital police in "sting" operations: A case report and practice implications. *International Journal of Forensic Mental Health*, 1, 93-99.

[REDACTED] (2002). Interrater reliability of the Fitness Interview Test across four professional groups. *Canadian Journal of Psychiatry*, 47, 945-952.

[REDACTED] (2002). An examination of the relationship between competency to stand trial, competency to waive interrogation rights, and psychopathology. *Law and Human Behavior*, 26, 481-506.

[REDACTED] (2002). Fitness to stand trial evaluations: A comparison of referred and non-referred defendants. *International Journal of Forensic Mental Health*, 1, 127-138.

[REDACTED] (2001). The last competency: An examination of legal, ethical, and professional ambiguities regarding evaluations of competence for execution. *Journal of Forensic Psychology Practice*, 1, 1-25.

[REDACTED] (2001). A comparison of the MacCAT-CA and the FIT for making determinations of competency to stand trial. *International Journal of Law and Psychiatry*, 24, 81-92.

[REDACTED] (2001) Assessing fitness to stand trial: The utility of the Fitness Interview Test (revised edition). *Canadian Journal of Psychiatry*, 46, 426-432.

[REDACTED] (2000). Mental competency evaluations: Guidelines for judges and attorneys. *Court Review*, 37, 28-35.

[REDACTED] (1998). Fitness to stand trial: Characteristics of fitness remands since the 1992 Criminal Code amendments. *Canadian Journal of Psychiatry*, 43, 287-293.

[REDACTED] (1997). The impact of Canadian criminal code changes on assessments of fitness to stand trial and criminal responsibility. *Canadian Journal of Psychiatry*, 42, 509-514.

- Reprinted in (2000) [REDACTED] (Eds.), *Mental disorders and the Criminal Code: Legal background and contemporary perspectives* (pp. 139-157). Burnaby, BC: Mental Health, Law, and Policy Institute, Simon Fraser University.

[REDACTED] (1997). Assessing fitness to stand trial: A comparison of institution-based evaluations and a brief screening interview. *Canadian Journal of Community Mental Health*, 16, 53-66.

[REDACTED] (1997). Alternatives to inpatient evaluations of fitness to stand trial. *Analise Psicologica*, 15, 419-424.

[REDACTED] (1996). Conceptualizing and assessing competency to stand trial: Implications and applications of the MacArthur Treatment Competence Model. *Psychology, Public Policy, and Law*, 2, 96-113.

[REDACTED] (1996). An examination of the relationship of homelessness to mental disorder, criminal behavior, and health care in a pretrial jail population. *Canadian Journal of Psychiatry*, 41, 435-440.

## Book Chapters

[REDACTED] D. (in press). Research methodology in competency to stand trial and criminal responsibility research. In S. D. Penrod & B. Rosenfeld (Eds.), *Research methods in forensic psychology*. New York: Wiley.

[REDACTED] (in press). Controversies in evaluating competency to stand trial. In K. Douglas, S. Lilienfeld, & J. Skeem (Eds.), *Psychological science in the courtroom: Controversies and consensus*. Guilford.

[REDACTED] (in press). Insanity in the courtroom: Issues of criminal responsibility and competency to stand trial. In J. D. Lieberman & D. A. Krauss (Eds.), *Psychology in the courtroom*. Aldershot, U.K.: Ashgate.

[REDACTED] (2009). Psychological perspectives on criminality. In R. Linden (Ed.), *Criminology: A Canadian perspective* (6th ed., pp. 247-281). Toronto, ON: Nelson Thompson Learning.

[REDACTED] (2008). Competency for execution. In R. Jackson (Ed.), *Learning forensic assessment* (pp. 239-261). Mahwah, NJ: Lawrence Erlbaum.

[REDACTED] (2007). The death penalty: A brief review of historical roots and current practices relevant to the mental health practitioner (pp. 295-319). In R. K. Ax & T. J. Fagan (Eds.), *Corrections, mental health, and social policy*. Springfield, IL: Charles C. Thomas.

[REDACTED] (2006). Violence risk assessment: Research, legal, and clinical considerations. In I. B. Weiner & A. K. Hess (Eds.), *Handbook of forensic psychology* (3<sup>rd</sup> ed., pp. 487-533). New York: Wiley.

[REDACTED] (2006). Criminal responsibility and the insanity defense. In I. B. Weiner & A. K. Hess (Eds.), *Handbook of forensic psychology* (3<sup>rd</sup> ed., pp. 332-363). New York: Wiley.

[REDACTED] (2006). Competency to stand trial: A guide for evaluators. In I. B. Weiner & A. K. Hess (Eds.), *Handbook of forensic psychology* (3<sup>rd</sup> ed., pp. 305-331). New York: Wiley.

[REDACTED] (2004). Psychological perspectives on criminality. In R. Linden (Ed.), *Criminology: A Canadian perspective* (5th ed., pp. 260-291). Toronto, ON: Nelson Thompson Learning.

[REDACTED] (2002). Competency: Past, present, and future. In J. R. P. Ogloff (ed.), *Taking psychology and law into the twenty first century* (pp. 171-198). Kluwer Academic/Plenum Publishers.

[REDACTED] (2001). The assessment and treatment of offenders and inmates: Specific populations. In [REDACTED] (Eds.), *An introduction to law and psychology: Canadian perspectives* (pp. 248-282). Toronto, ON: University of Toronto Press.

[REDACTED] (2001). A comparison of American and Canadian conceptualizations of competence to stand trial. [REDACTED] (Eds.), *Psychology in the courts: International advances in knowledge*, pp. 121-132. London: Routledge.

[REDACTED] (2000). Psychological perspectives on criminality. [REDACTED] (Ed.), *Criminology: A Canadian perspective* (pp. 238-269) (4th ed.). Toronto, ON: Harcourt Brace.

[REDACTED] (2000). Competency issues in civil and criminal law: A comparison of competency measures. In [REDACTED] (Eds.), *Forensic psychology and law: Traditional questions and new ideas* (pp. 34-40). Krakow, Poland: Institute of Forensic Research Publishers.



\_\_\_\_\_. (1999). The assessment of criminal responsibility: A historical approach to a current controversy. In \_\_\_\_\_ (Eds.), *Handbook of forensic psychology* (2nd ed., pp. 379-408). New York: John Wiley and Sons.

\_\_\_\_\_. (1999). Defining and assessing competency to stand trial. In \_\_\_\_\_ (Eds.), *Handbook of forensic psychology* (2nd ed., pp. 327-349). New York: John Wiley and Sons.

\_\_\_\_\_ (1998). Jail and prison inmates. In \_\_\_\_\_ (Series Eds.) and \_\_\_\_\_ (Vol. Ed.), *Comprehensive clinical psychology: Vol. 9. Application in diverse populations*. New York: Elsevier.

\_\_\_\_\_ (1996). Psychological perspectives on criminality. In R. Linden (Ed.), *Criminology: A Canadian perspective* (3rd ed.). Toronto, ON: Harcourt Brace.

## Books and Manuals

\_\_\_\_\_ (in press). *Guide to best practices for forensic mental health assessments: Competency to stand trial*. New York, NY: Oxford.

\_\_\_\_\_ (2006). *Suicide Assessment Manual for Inmates (SAMI)*. Burnaby, BC: Mental Health, Law, and Policy Institute, Simon Fraser University.

- Translated into Norwegian by Leif Waag.

\_\_\_\_\_ (2006). *Fitness Interview Test: A structured interview for assessing competency to stand trial*. Sarasota, FL: Professional Resource Press.

\_\_\_\_\_ (1998). *The Fitness Interview Test* (Revised edition). Burnaby, BC: Mental Health, Law, and Policy Institute, Simon Fraser University.

- Translated into French by Anne Croker, University of Montreal.
- Translated into Spanish by Jorge Folino, University of LaPlata, Argentina.
- Translated into German.

## Reviews, Entries, & Published Proceedings

\_\_\_\_\_ (in press). Psychology and law. In I. B. Weiner & W. E. Craighead (Eds.), *The concise Corsini encyclopedia of psychology and behavioral science* (4th ed.) New York: Wiley.

\_\_\_\_\_ (in press). Criminal responsibility. In I. B. Weiner & W. E. Craighead (Eds.), *The concise Corsini encyclopedia of psychology and behavioral science*. New York: Wiley.

\_\_\_\_\_ (2008). Competency Assessment Instrument (CAI). In B. L. Cutler (Ed.), *The encyclopedia of psychology and law* (pp. 111-112). Thousand Oaks, CA: Sage.

\_\_\_\_\_ (2008). Checklist for competency for execution evaluations. In B. L. Cutler (Ed.), *The encyclopedia of psychology and law* (pp. 63-65). Thousand Oaks, CA: Sage.

\_\_\_\_\_ (2008). Competency for execution. In B. L. Cutler (Ed.), *The encyclopedia of psychology and law* (pp. 112-115). Thousand Oaks, CA: Sage.

\_\_\_\_\_ (2008). Suicide Assessment Manual for Inmates (SAMI). In B. L. Cutler (Ed.), *The encyclopedia of psychology and law* (pp. 785-786). Thousand Oaks, CA: Sage.

\_\_\_\_\_ (2008). Competency to stand trial. In B. L. Cutler (Ed.), *The encyclopedia of psychology and law* (pp. 119-123). Thousand Oaks, CA: Sage.

[REDACTED]. (2004). Psychology and the law. In W. E Craighead & C. B. Nemeroff (Eds.), *The concise Corsini encyclopedia of psychology and behavioral science* (pp. 751-753). New York: Wiley.

[REDACTED] (2002). Test review: Miller-Forensic Assessment of Symptoms Test. *American Psychology-Law Society News*, 22, 16-18.

[REDACTED]. (2001). Psychology and the law. In W. E Craighead & C. B. Nemeroff (Eds.), *The Corsini encyclopedia of psychology and behavioral science* (3<sup>rd</sup> ed., Vol. 3, pp. 1295-1302.). New York: Wiley.

[REDACTED] (1999). Post conviction relief: The assessment of competence for execution. *Proceedings of Psychological Expertise and Criminal Justice: An APA/ABA Conference for Psychologists and Lawyers* (vol. 2, pp. 189-201). Washington, DC: American Psychological Association.

### Books under Contract

[REDACTED]. (under contract). *Forensic psychology and the law*. Hoboken, NJ: Wiley.

### Conference Presentations

[REDACTED] (2008, August). *Clinician variation in findings of trial competence*. Paper [accepted for presentation at] the 116 annual convention of the American Psychological Association, Boston, MA.

[REDACTED] (2008, July). *Forensic assessment instruments' use of arbitrary metrics*. Paper [accepted for presentation at the] International Association of Forensic Mental Health Services, Vienna, Austria.

[REDACTED] (2008, March). *Shhh! Miranda (mis)comprehension in the general populace*. Paper presented at the Annual Meeting of the American Psychology-Law Society, Jacksonville, FL.

[REDACTED] (2008, March). The use of arbitrary metrics in competency to stand trial assessment instruments. Paper presented at the Annual Meeting of the American Psychology-Law Society, Jacksonville, FL.

[REDACTED] (2007, August). *Impact of Psychopathology on the MacCAT-CA*. Paper presented at 115 annual convention of the American Psychological Association, San Francisco, CA.

[REDACTED] (2006, June). *An investigation of psychologists' practices and attitudes toward participation in capital evaluations*. Paper presented at the International Association of Forensic Mental Health Services Conference, Amsterdam, The Netherlands.

[REDACTED] (2006, June). *Malingering in psychiatric patients: Are they any better than College students?* Paper presented at the International Association of Forensic Mental Health Services Conference, Amsterdam, The Netherlands.

[REDACTED]. (2006, March). *Newer isn't always better: A comparison of Grisso's Miranda instruments with Goldstein's revised version*. Paper presented at the Annual Meeting of the American Psychology - Law Society, St. Petersburg, FL.

[REDACTED] (2006, March). *Validation of an abbreviated version of the SIRS in an outpatient psychiatric setting*. Paper presented at the Annual Meeting of the American Psychology - Law Society, St. Petersburg, FL.

[REDACTED]. (2005, April). *Mental disorder and criminality: Profiles of individuals based on symptom clusters of the Brief Psychiatric Rating Scale*. Paper presented at the 5<sup>th</sup> Annual Convention of the International Association of Forensic Mental Health Services, Melbourne, Australia.

[REDACTED] (2005, March). *The Suicide Assessment Manual for Inmates (SAMI): A first look at normative data*. Paper presented at the Annual meeting of the American Psychology - Law Society, La Jolla, CA.

[REDACTED] (2005, March). *Competence for police interrogation and adjudication in child and adolescent defendants: A comparison of legal standards*. Paper presented at the Annual meeting of the American Psychology - Law Society, La Jolla, CA.

[REDACTED]. (2004, August). *Psychiatric symptoms and competence-related abilities across studies*. Paper presented at the 112<sup>th</sup> annual convention of the American Psychological Association, Honolulu, Hawaii.

[REDACTED] (2004, June). *Mental disorder and criminality: Symptoms and offence type*. Paper presented at the 4<sup>th</sup> Annual Convention of the International Association of Forensic Mental Health Services, Stockholm, Sweden.

[REDACTED] (2004, March). *The measurement of competence to stand trial: A comparison of two competence assessment instruments in a sample of individuals with mental retardation*. Paper presented at the Annual meeting of the American Psychology - Law Society, Scottsdale, AZ.

[REDACTED] (2004, March). *The measurement of adjudicative competence: A comparison of three types of competencies in a sample of individuals with mental retardation*. Paper presented at the Annual meeting of the American Psychology - Law Society, Scottsdale, AZ.

[REDACTED] (2004, March). *Psychiatric inpatients' comprehension of Miranda rights: Normative data*. Paper presented at the Annual meeting of the American Psychology - Law Society, Scottsdale, AZ.

[REDACTED]. (2004, March). *Intellectual ability and comprehension of Miranda rights*. Paper presented at the Annual meeting of the American Psychology - Law Society, Scottsdale, AZ.

[REDACTED] (2004, March). *A Survey of Attitudes and Practices Regarding Malingering*. Paper presented at the Annual meeting of the American Psychology - Law Society, Scottsdale, AZ.

[REDACTED] (2004, March). *Readability of Miranda warnings and waivers: Implications for evaluating Miranda comprehension*. Paper presented at the Annual meeting of the American Psychology - Law Society, Scottsdale, AZ.

[REDACTED] (2004, March). *Factor analysis of malingering in jails: Identification of lower threshold symptom exaggeration*. Paper presented at the Annual meeting of the American Psychology - Law Society, Scottsdale, AZ.

[REDACTED] (2004, March). *An evaluation of the influence of psychiatric symptoms and cognitive abilities on competence-related abilities*. Paper presented at the Annual meeting of the American Psychology - Law Society, Scottsdale, AZ.

[REDACTED] (2004, March). *A comparison of juvenile and adult trial related competencies*. Paper presented at the Annual meeting of the American Psychology - Law Society, Scottsdale, AZ.

[REDACTED] (2003, August). *Psychiatric symptoms, intellectual ability, and Miranda waiver competency*. Paper presented at the 111<sup>th</sup> annual convention of the American Psychological Association, Toronto, Ontario, Canada.

[REDACTED] (2003, August). *Appreciation of Miranda rights in interrogation situations*. Paper presented at the 111<sup>th</sup> annual convention of the American Psychological Association, Toronto, Ontario, Canada.

[REDACTED] (2003, August). *The predictive efficiency of demographic, criminal, and psychiatric variables in decisions of competency restoration*. Paper presented at the 111<sup>th</sup> annual convention of the American Psychological Association, Toronto, Ontario, Canada.

[REDACTED] (2003, August). *Test usage in juvenile competency to stand trial evaluations*. Paper presented at the 111<sup>th</sup> annual convention of the American Psychological Association, Toronto, Ontario, Canada.

[REDACTED] (2003, July). *Dispositional decisions with the mentally ill: Police perceptions and characteristics*. Paper presented at the joint meeting of the American Psychology-Law Society, the European Association of Psychology and Law, and the Australia and New Zealand Associations of Psychology and Law, Edinburgh, Scotland.

[REDACTED] (2003, July). *An evaluation of the influences of psychiatric symptoms and cognitive abilities on competence related abilities: Preliminary results*. Paper presented at the joint meeting of the American Psychology-Law Society, the European Association of Psychology and Law, and the Australia and New Zealand Associations of Psychology and Law, Edinburgh, Scotland.

[REDACTED] (2003, July). *Empirical Analysis of the Factor Structure of the MacArthur Competence Assessment Tool—Criminal Adjudication*. Paper presented at the joint meeting of the American Psychology-Law Society, the European Association of Psychology and Law, and the Australia and New Zealand Associations of Psychology and Law, Edinburgh, Scotland.

[REDACTED] (2003, April). *Diagnosis, current psychiatric symptoms, and legal abilities*. Paper presented at the 3<sup>rd</sup> Annual International Association of Forensic Mental Health Services Conference, Miami Beach, FL.

[REDACTED] (2002, August). *Utility of routine malingering assessment in jails*. Paper presented at the 110<sup>th</sup> Annual Convention of the American Psychological Association, Chicago, IL.

[REDACTED] (2002, May). *Diagnosis, psychiatric symptoms, and competency to stand trial*. Paper presented at the 63<sup>rd</sup> Annual Meeting of the Canadian Psychological Association, Vancouver, British Columbia, Canada.

[REDACTED] (2002, March). *The Impact of the knowledge and attitudes of police officers on mentally retarded individuals in the criminal justice system*. Paper presented at the Biennial meeting of the American Psychology - Law Society, Austin, TX.

[REDACTED] (2002, March). *Ethnicity differences in competency to stand trial referral and assessment*. Paper presented at the Biennial meeting of the American Psychology - Law Society, Austin, TX.

[REDACTED] (2002, March). *An investigation of procedures used in competency to stand trial evaluations of juveniles*. Paper presented at the Biennial meeting of the American Psychology - Law Society, Austin, TX.

[REDACTED] (2002, March). *Assessing gender differences in competency to stand trial referral and assessment*. Paper presented at the Biennial meeting of the American Psychology - Law Society, Austin, TX.

[REDACTED] (2002, March). *An investigation of competence-related abilities in a sample of undergraduates*. Paper presented at the Biennial meeting of the American Psychology - Law Society, Austin, TX.

[REDACTED] (2002, March). *The assessment of maturity in juvenile competency to stand trial evaluations*. Paper presented at the Biennial meeting of the American Psychology - Law Society, Austin, TX.

[REDACTED] (2002, March). *Competency to waive interrogation rights and competency to stand trial: The relationship between legally relevant abilities and psychopathology*. Paper presented at the Biennial meeting of the American Psychology - Law Society, Austin, TX.

[REDACTED] (2002, March). *The relationship between psychiatric symptomatology and competency to consent to treatment*. Paper presented at the Biennial meeting of the American Psychology - Law Society, Austin, TX.

[REDACTED] (2001, August). *Conducting evaluations of competence for execution: Psychologists' practices and experiences*. Paper presented at the 109<sup>th</sup> annual convention of the American Psychological Association, San Francisco, CA.

[REDACTED] (2001, August). *Discrepant decisions of competence between forensic evaluators and the courts*. Paper presented at the 109<sup>th</sup> annual convention of the American Psychological Association, San Francisco, CA.

[REDACTED] (2001, August). *Predictor variables in competency to stand trial decisions*. Paper presented at the 109<sup>th</sup> annual convention of the American Psychological Association, San Francisco, CA.

[REDACTED] (2001, August). *Assessing the accuracy of treatability predictions for incompetent defendants made by mental health examiners*. Paper presented at the 109<sup>th</sup> annual convention of the American Psychological Association, San Francisco, CA.

[REDACTED] (2001, August). *Judges' decisions regarding juvenile waiver to adult criminal court*. Paper presented at the 109<sup>th</sup> annual convention of the American Psychological Association, San Francisco, CA.

[REDACTED] (2001, August). *Factor structure of the BPRS in a pretrial jail population*. Paper presented at the 109<sup>th</sup> annual convention of the American Psychological Association, San Francisco, CA.

[REDACTED] (2001, April). *Competency determination in relation to type of offense*. Paper presented at the founding conference of the International Association of Forensic Mental Health Services, Vancouver, British Columbia, Canada.

[REDACTED] (2001, April). *Examiner differences in competency to stand trial decisions*. Paper presented at the founding conference of the International Association of Forensic Mental Health Services, Vancouver, British Columbia, Canada.

[REDACTED] (2001, April). *A comparison of incompetent defendants restored to competency and incompetent defendants unable to be restored*. Paper presented at the founding conference of the International Association of Forensic Mental Health Services, Vancouver, British Columbia, Canada.

[REDACTED] (2001, March). *A comparison of incompetent and competent criminal defendants in Alabama*. Paper presented at the annual convention of the Southeastern Psychological Association, Atlanta, GA.

[REDACTED] (2000, July). *The Fitness Interview Test: Reliability and validity of a brief screening instrument*. Paper presented at the International Academy of Law and Mental Health's XXVth Anniversary Congress on Law and Mental Health, Siena, Italy.

[REDACTED] (2000, July). *An investigation of the procedures and standards for competency to stand trial in the United States and Canada*. Paper presented at the International Academy of Law and Mental Health's XXVth Anniversary Congress on Law and Mental Health, Siena, Italy.

[REDACTED] (2000, March). *Assessment of competency for execution: Professional guidelines and an evaluation checklist*. Paper presented at the Biennial meeting of the American Psychology - Law Society, New Orleans, LA.

[REDACTED] (2000, March). *Competency: Past, Present, and Future*. Paper presented at the Biennial meeting of the American Psychology - Law Society, New Orleans, LA.

[REDACTED] (2000, March). *Characteristics of defendants remanded for fitness assessments*. Paper presented at the Biennial meeting of the American Psychology - Law Society, New Orleans, LA.

[REDACTED] (1999, October). *Post conviction relief: The assessment of competence for execution*. Paper presented at the joint conference of the American Psychological Association and the Criminal Justice Section of the American Bar Association, Washington, DC.

[REDACTED] (1999, August). *An examination of the quality of forensic reports in Florida*. Paper presented at the 107<sup>th</sup> annual convention of the American Psychological Association, Boston, MA.

[REDACTED] (1999, July). *A comparison of the MacCAT-CA and the FIT-R for making determinations of competency to stand trial*. Paper presented at the first joint meeting of the American Psychology-Law Society and the European Association of Psychology and Law, Dublin, Ireland.

[REDACTED] (1998, September). *Competency issues in civil and criminal law: A comparison of competency measures*. Paper presented at the 8<sup>th</sup> European Conference on Psychology and Law, Krakow, Poland.

[REDACTED] (1998, August). *Is there an underlying construct to competence? An investigation of the abilities required for treatment versus adjudicative competence*. Paper presented at the 106<sup>th</sup> annual meeting of the American Psychological Association, San Francisco, CA.

[REDACTED] (1998, August). *The relationship between treatment competence and adjudicative competence: A comparison of the MacCAT-T, the MacCAT-CA, and the FIT-R*. Symposium presentation at the International Association of Applied Psychology congress, San Francisco, CA.

[REDACTED] (1998, June). *An examination of the predictive validity of the Fitness Interview Test Revised and the Brief Psychiatric Rating Scale for decisions about fitness to stand trial*. Paper presented at the Canadian Psychological Association's Annual Conference, Edmonton, Alberta, Canada.

[REDACTED] (1998, March). *An examination of the construct of competence in a civil and criminal context: A comparison of the MacCAT-T, the MacCAT-CA, and the FIT-R*. Paper presented at the Biennial meeting of the American Psychology - Law Society, Redondo Beach, CA.

[REDACTED] (1997, June). *Psychological test use in criminal justice evaluations*. Paper presented at the Canadian Psychological Association's Annual Conference, Toronto, Ontario, Canada.

[REDACTED] (1997, April). *Elucidating the standards for mental disorder as a prerequisite for legal interventions: A review of case law and a discussion of its applicability*. Paper presented at the Insanity, Mental Disorder, and the Criminal Code Conference, Vancouver, British Columbia, Canada.

[REDACTED] (1996, November). *Utility of the Brief Psychiatric Rating Scale as a screening instrument in a pretrial population: Some conclusions and normative data*. Paper presented at the Second International Colloquium on Aggression, Mental Illness, and Psychiatric Intervention, Montreal, Quebec, Canada.

[REDACTED]. (1996, August). *Fitness remands in Canada since the 1992 amendments to the criminal code*. Paper presented at the 104<sup>th</sup> annual convention of the American Psychological Association, Toronto, Ontario, Canada.

[REDACTED] (1996, March). *Fitness to stand trial: A comparison of institution-based evaluations and the Fitness Interview Test - Revised*. Paper presented at the Biennial meeting of the American Psychology - Law Society, Hilton Head, SC.

[REDACTED]. (1995, April). *Assessing fitness to stand trial: An examination of brief-screening and institution-based evaluations*. Paper presented at the Mental Disorder and Criminal Justice: Changes, Challenges, and Solutions conference, Vancouver, British Columbia, Canada.

[REDACTED] (1993, April). *Crime and personality: The relationship between crime and personality as measured by the Basic Personality Inventory*. Paper presented at the Brian Harder Honors Conference, Edmonton, Alberta, Canada.

# **ATTACHMENT F**





OFFICE OF THE SECRETARY OF DEFENSE  
OFFICE OF MILITARY COMMISSIONS

CONVENING AUTHORITY

July 14, 2008

MEMORANDUM FOR LT Richard Federico, Office of Defense Counsel

SUBJECT: *U.S. v. Kamin*: Response to Request for an Expert Consultant

I have reviewed your 2 July 2008 request for employment of Dr. [REDACTED] Ph.D., as an expert consultant in the field of clinical and forensic psychology. I am denying your request because it lacks sufficient justification as required by R.M.C. 703(d).

The request states that "[t]he defense must ensure that Mr. Kamin is competent to make a knowing and voluntary waiver of his right to counsel, is competent to stand trial, and/or determine whether he suffers from a diminished capacity . . . ." You also assert that you are ". . . ethically required to determine whether Mr. Kamin suffers from any diminished capacity to make adequately considered decisions in connection with representation." The request cites a 2005 Healthcare Services Case Review/Treatment Team (BSCT) assessment that reflects a diagnostic impression of [REDACTED]. It also cites Mr. Kamin's statements during his arraignment that he does not want the assistance of detailed counsel, does not intend to represent himself, and does not wish to be present for future proceedings as evidence that Mr. Kamin suffers from a condition that impairs his ability to assist in his defense.

R.M.C. 703(d) states that a request for an expert consultant "shall include a complete statement of the reasons why the expert is necessary." In construing R.M.C. 703(d), I have consistently applied the test set forth in *United States v. Bresnahan*, 62 M.J. 137, 143 (C.A.A.F. 2005) (internal citations omitted):

An accused is entitled to an expert's assistance before trial to aid in the preparation of his defense upon a demonstration of necessity. But necessity requires more than the "mere possibility of assistance from the requested expert . . ." The accused must show that a reasonable probability exists "both that an expert would be of assistance to the defense and that denial of an expert would result in a fundamentally unfair trial."

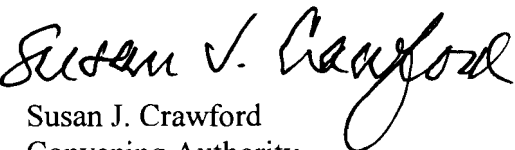
We apply a three-part test to determine whether expert assistance is necessary. The defense must show (1) why the expert assistance is needed; (2) what the expert assistance would accomplish for the accused; and (3) why the defense counsel were unable to gather and present the evidence that the expert assistance would be able to develop. A military judge's ruling on a request for expert assistance will not be overturned absent an abuse of discretion.

The request does not satisfy the first requirement of *Bresnahan*. The request suggests that Mr. Kamin suffers from a physical or cognitive disorder based on a diagnostic impression from a 2005 BSCT assessment. You have a copy of at least a portion of Mr. Kamin's health records and you infer that these records are the source of this information, but you did not provide a copy of the relevant records with your request. I cannot properly assess your request without this information from Mr. Kamin's health records.

You also assert that Mr. Kamin's decisions not to cooperate with you, not to represent himself, and not to be present for future proceedings suggest that he may suffer from some diminished capacity. Without more information, I do not agree that these factors are evidence of an underlying mental disease or defect that precludes Mr. Kamin from understanding the nature of the proceedings or cooperating intelligently in the defense of the case.

Under R.M.C. 909(b), Mr. Kamin is presumed to be competent to stand trial in the absence of evidence to the contrary. You have provided insufficient evidence to support your contention that he may not be competent to stand trial or lacks the capacity to make decisions concerning representation by counsel.

If you have additional support for your position, please forward that information for further review of your request.

  
Susan J. Crawford  
Convening Authority  
for Military Commissions

# **ATTACHMENT G**

Office of the Chief Defense Counsel  
Office of the Military Commissions  
1600 Defense Pentagon, Rm. 3B688  
Washington DC 20301  
Phone: [REDACTED]  
Fax: [REDACTED]

14 July 2008

MEMORANDUM FOR THE CONVENING AUTHORITY

Subj: SUPPLEMENTAL REQUEST FOR APPOINTMENT OF EXPERT  
CONSULTANT DR. [REDACTED] PH.D., TO DEFENSE TEAM ICO  
*UNITED STATES V. MOHAMMED KAMIN*

Ref: (a) Memorandum to Convening Authority, "Request for Appointment of Expert  
Consultant Dr. [REDACTED], Ph.D., to Defense Team ICO *United States v.  
Mohammed Kamin*," dated 2 July 2008  
(b) Memorandum to LT Federico, dated 14 July 2008

1. The defense is in receipt of your response to the request for the appointment and funding for Dr. [REDACTED] to assist the defense in the above-titled case. The following is submitted to supplement the initial request, reference (a), and to respond to your specific request for "additional support," reference (b).

2. Per your request, enclosed is a one-page "Chronological Record of Medical Care," dated November 2005, that documents the assertions previously made concerning diagnostic impressions made by the BSCT at JTF-GTMO.

3. In addition, your response failed to state whether you gave any consideration to the assertion that the prolonged periods of confinement likely have caused Mr. Kamin to suffer from some, if not significant, psychological harm. This fact alone demonstrates why expert assistance is needed – to allow detailed defense counsel to meet ethical obligations to determine whether Mr. Kamin suffers from diminished capacity and/or is legally competent to stand trial.

4. You further state that the defense has "provided insufficient evidence to support your contention that he may not be competent to stand trial or lacks the capacity to make decisions concerning representation by counsel." The defense need not prove *to the convening authority* that the presumption of R.M.C. 909(b) has been overcome. Rather, the defense is attempting to receive the tools to conduct an analysis as to whether the presumption need be challenged *before the Commission*. The defense has no ability or resources to do this on its own. It requires the approval and funding by the convening authority. The defense shall have a reasonable opportunity to obtain witnesses and other evidence. *See* 10 U.S.C. §949j. Unquestionably the defense has met its burden to demonstrate necessity upon the showing already made that Mr. Kamin has been

Subj: SUPPLEMENTAL REQUEST FOR APPOINTMENT OF EXPERT  
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evaluated in the past by United States government physicians and determined to suffer from some [REDACTED] and the [REDACTED]" have contributed to this.

5. Respectfully request a response be provided to this supplemental request by 1600 EST, Tuesday, 15 July 2008. The continued denial of this request will likely delay the proceedings as, if the request remains denied, detailed defense counsel will require time to draft a motion seeking relief from the Commission and a hearing to present this motion.

6. In the event this request continues to be denied, the defense respectfully requests a written response that details the reasons for the denial. Should you require further information, please contact me at [REDACTED]

*//s// Richard E.N. Federico*  
Richard E.N. Federico  
LT, JAGC, USN  
Detailed Defense Counsel

Encl: Chronological Record of Medical Care (1 pg.)

cc: BG Hartmann, Legal Advisor  
Maj Ashmawy, Trial Counsel  
LT Trest, Assistant Trial Counsel

# **ATTACHMENT H**



OFFICE OF THE SECRETARY OF DEFENSE  
OFFICE OF MILITARY COMMISSIONS

CONVENING AUTHORITY

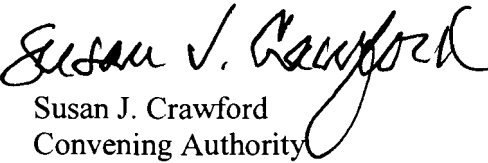
July 15, 2008

MEMORANDUM FOR LT Richard Federico, Office of Defense Counsel

SUBJECT: *U.S. v. Kamin*: Response to Request for an Expert Consultant

I have considered your 14 July 2008 supplemental request for employment of Dr. [REDACTED], Ph.D., as an expert consultant. I also considered the document you provided from Mr. Kamin's medical records to support this supplemental request. I am denying the request because it still does not satisfy the first requirement of *Bresnahan*.

The medical record does not support your request. It indicates [REDACTED] as a result of the BSCT consultation. Support services were provided to Mr. Kamin pursuant to [REDACTED] and not [REDACTED].

  
Susan J. Crawford  
Convening Authority  
for Military Commissions

